Efficiency and Effectiveness of Special Courts for Cheque Bounce Cases under the Negotiable Instrument Act: An Analytical and Empirical Study with Reference to the State of Rajasthan

Synopsis of the Research Proposal
Submitted for the Registration in the
Ph.D Program (Part-Time) in Law

Submitted By

Loveleena Mathur

(Enrollment Number: 24RDCDIUJND03036)

Under Supervision of

Dr. Harish Kumar Verma

(Associate Professor and Dean)

ICFAI Law School

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Research Scholar

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Supervisor

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Title:-

Efficiency and Effectiveness of Special Courts for Cheque Bounce Cases under the Negotiable Instrument Act: An Analytical and Empirical Study with Reference to the State of Rajasthan

Abstract

The Apex Court of the Country has issued orders to the High Court of Rajasthan to set up Special NI Courts in Rajasthan, and in compliance, Special NI courts have been established in the four districts of Rajasthan. The reason for the establishment of these courts is to deal with the backlog of cheque bounce cases in "section 138 of the Negotiable Instruments Act". The highest pendency of cheque bounce cases has been reported from Rajasthan, hence special courts were set up. The Special NI courts have been established at "Jaipur Metro-I, Jaipur Metro-II, Jodhpur, Udaipur, and Ajmer". The special courts are different from general courts and are supposed to decide cases promptly. The special courts have limited jurisdiction and deal with a specific type of case only. It was found that the delay in disposal of cases and their pendency problems still persist in Rajasthan. The pendency in cheque bounce cases in special NI courts has increased from 4, 79,774 lakh to 6.78 lakh in June 2025. Such scenarios are indicatives that existing laws, judicial response and working of special NI courts have some issues. This analytical and empirical research will analyze effectiveness and efficiency of special NI courts in Rajasthan, also compare Rajasthan's special NI courts functioning with special NI courts constituted in State of UP. Maharashtra, Delhi and Gujarat. The study also aims to evaluate judgments of the higher judiciary, and legal framework governing the establishment of special NI courts in India with emphasis on Rajasthan. The study also intend to identify the precise reasons for the delay, assess the special NI Courts' performance in relation to their stated goals, and suggest a multifaceted reform approach.

Key words: Special NI Courts, Negotiable Instruments, Cheque Bounce, Pendency and delays.

1. Introduction

The main aim to enact “the Negotiable Instruments Act, 1881”, was to provide a legal provision as a remedy for a range of financial instruments and transactions, including “promissory notes, bills of exchange, and cheques”. The Act’s primary goal was to facilitate commercial transactions by ensuring the credibility of these instruments. The core objective of Section 138 was to promote efficiency in banking operations and maintain public confidence in the use of cheques. This provision was designed to ensure that cheques, as a substitute for cash, retain their legitimacy and trustworthiness, thereby benefiting business transactions and broader economic expansion.

The offence under Section 138 is unique in its legal character. It is considered as "quasi-criminal" because it criminalizes what is fundamentally a wrong of civil nature, mixing the procedure of a trial of criminal cases with the civil dispute in respect of a debt. Furthermore, the "strict liability offence”, which means the complainant is not bound to prove that the drawer had a guilty mind (*mens rea*) or criminal intent when they issued the cheque. This deliberate aspect was considered minimise the complexity of inquiries with the drawer's state of mind to create a imperative system with punishment. The law imposes a penalty of two years imprisonment, and can impose a fine that may be up to double in amount of the amount, or with both.

The Section 138 not considered by the mere dishonour of a cheque; it is a sequential offence that requires the completion of a series of strict, sequential conditions. The process begins with the instance of cheque issued in discharge of a "legally enforceable debt or other liability". At this crucial first step, a cheque issued as a gift or for an illegal consideration would not come under the ambit of the law. Then within the period of 3 months cheque shall be presented to the concerned bank.

If that cheque is returned unpaid, the payee must delivered a notice in writing to the maker within the prescribed thirty days of receiving the bank's return note. The notice must explicitly demand payment of the cheque amount. If the drawer not pay the amount payable the cause of action arises under the section of 138 and he has to pay the amount within 15 days after receiving the notice. Additionally, the complainant has to file a criminal complaint within the prescribed period of one month.

Historically “the Negotiable Instruments Act, 188, added sections 138 to 142” by the amendment in 1988 to deal with dishonor of cheque cases, after that in year 2002 sections 143 to 147 were added and sections 143 A and 148 were added in 2018. Hence, a clear and updated

explanation of cheque bounce cases, and provisions explained under the “Negotiable Instruments Act, 1881 (NI Act)”.

This research seeks to address the central question: Have Special NI Courts effectively addressed the issue of delayed justice in cheque bounce cases? To answer this, the report will first deconstruct the legislative and essential framework of the NI Act. It will then analyze the empirical data and systemic challenges that have led to the current crisis. A detailed examination of the judiciary's proactive response, including the pilot study for Special Courts, will follow. The analysis will be enriched by a comparative review of other specialized judicial mechanisms in India and a global perspective on cheque dishonour laws. The report will conclude with a critical assessment of the Special NI Courts model and offer recommendations for sustained reform.

The study aims to assess the effectiveness of 25 special courts established in Rajasthan, with retired judges, to increase the rate of trial of cases “under Section 138 of the Negotiable Instruments Act”. This effort aimed to decrease the burden on existing courts and accelerate the resolution of these cases. “Jaipur Metropolitan I, Jaipur Metropolitan II, Jodhpur Metropolitan, Udaipur, and Ajmer” were all instructed to participate in the pilot study for special Negotiable Instrument (NI) Act courts in Rajasthan. These districts were chosen because they have the most NI Act cases pending in the state. The Supreme Court launched the pilot program as a component of a broader effort to clear the backlog of cases involving bounced checks. The specific districts were chosen to represent areas with the most significant number of pending cases. As of December 18, 43 lakh cases of checks bouncing are still pending in different courts throughout the nation.

“The disposal of cases in courts depends upon many factors, which include availability of physical infrastructure, supporting court staff, complexity of facts involved, nature of evidence, cooperation of stakeholders viz bar, Investigation agencies, witnesses, and litigants & proper application of rules and procedures”.

A key recommendation from the Supreme Court-appointed committee was the establishment of special courts dedicated exclusively to NI Act cases. This structural change was proposed to test the viability of a focused judicial mechanism to tackle the overwhelming pendency. Following this recommendation, the Supreme Court directed the Union Government to conduct a pilot study for one year.[1] This study involved the establishment of 25 Special Courts across five judicial districts with the highest pendency in “Maharashtra, Rajasthan, Gujarat, Delhi, and Uttar Pradesh.” The pilot, which ran from September 2022 to August 2023, was designed to provide empirical data on the effectiveness of this model.

While official data on the Special NI Courts pilot study is not yet in the public domain, a

comparative analysis with other specialized judicial mechanisms in India can provide valuable insights into their potential efficacy. To deal with the special cases the Fast Track Special Courts (FTSC) established to enhance the speed of disposal the cases and offences under the POCSO Act, serve as a compelling blueprint for the Special NI Courts model.

The success of the FTSC model lies in its dedicated focus, streamlined procedures, and a clear mandate. Unlike the general courts, FTSCs are exclusively tasked with a specific category of cases, allowing judges and staff to develop specialized expertise and enforce a more consistent, efficient process. This suggests that a similar dedicated, resourced, and focused approach, applied to the unique procedural requirements of NI Act cases, could yield comparable results. The FTSCs demonstrate that structural reform, when coupled with a specific mandate and adequate resources, is a viable solution for reducing backlogs in a targeted manner.

2. Review of Literature

"Siddhant Kuwad(2025*)",* in his study article, explains the court's interpretation of digital notices, the presumption of service time frames, and its implications for future cheque dishonor cases, the study further mention about the judiciary's role to tackle digital cheque issues.

"Sanjeev Sharma (2025)", in his study, mentions that court fees for cheque bounce cases of Rs. 1 lakh vary by state, with examples like Maharashtra charging 2% of the check amount, Madhya Pradesh 5% and Rajasthan a flat Rs 10. The number of cheque bounce cases during the last 3 years is on the rise.

"**Raw law (2025**)" expressed that increasing number of pendency across all tiers of the judiciary is a critical issue. The establishment of special courts is a potential solution to this problem, particularly for specific categories of cases like economic offenses. The rationale behind special courts is to provide a more focused and specialized forum for the adjudication of financial matters, thereby reducing the burden on regular courts and ensuring a speed trial.

"Jayanti Pahwa (2024)", stated in her article that the court has deliberated on the admissibility of additional evidence at the appellate stage.The ultimate aim to provide justice should not be hampered but necessary evidence should be produced in front of court during the proceedings.

"Nupur Agrawal (2024)" mentioned in her study, that the presence of the accused should not be ordinarily insisted upon in cheque-bounce cases, the study further reveals the influence of criminal and civil nature." This reflects a move towards a more pragmatic and less procedural rigid approach to these cases. The court has also underscored the compensatory nature of Section 138 proceedings.

"Deeksha (2024)", in her study, she emphasized on factors laid down by the Supreme Court to provide rules to pay amount of compensation during the pendency of case. The study compel to read the word 'may' as 'shall' and according to her it will have severe changes, because now, drawer has to pay 20 percent of cheque amount as of compensation during the case proceedings.

"Haitham Mamdouh at. el (2024)" introduced a novel perspective by examining the utility of forensic accounting in complex NI Act disputes where the defense often involves allegations of fraud or account manipulation. It argues that engaging forensic experts could help courts see beyond the prima facie evidence of a dishonored cheque to the substantive transaction, leading to more just and efficient outcomes by preventing prolonged, evidence-heavy trials based on convoluted financial claims.

"Yaduvanshi, (2024)" said that courts were forced to use technology for court proceedings. The study further focuses on total integration in the Indian judicial system marks the era of technological transformation, such makes the Indian legal system more effective and transparent. Technology is playing a crucial role in modernizing the Indian court system, enhancing efficiency, transparency, and accessibility of justice. Initiatives like the "e-Courts Project, National Judicial Data Grid (NJDG)", and the integration of AI and blockchain are transforming judicial processes.

"Sanjay Kumar Sharma (2023)", in his research study on Laws Related to Dishonour of Cheques A Critical Analysis, suggests that damages provided in civil actions might take a very long period due to lengthy process of seeking civil justice. The recovery of damages may be speed up if Government of India set up a tribunal to handle cheque dishonour cases.

"Siddh Nath(2023)", in his article, analyzes the reasons why the legislative orders for summary trials process in NI Act cases is frequently bypassed, taking more time. He identified procedural complexities, heavy caseloads, and a judicial tendency as primary reasons. The paper is a doctrinal analysis of procedural law and suggested for stricter adherence to the summary trial framework to achieve the legislative intent of speedy justice.

"Dam, (2023)", in his study explained that with the special provisions of these special courts is its appointment of retired judges, intend to clear the backlog raised serious questions about potential impacts on judicial independence, although their role in these specialized, high-volume courts may be viewed differently.

"Kuldeep Kumar (2022)", in his research paper study about the volume of unresolved cases in the various levels of Courts. It suggested an urgent need of establishing Fast Track Courts (FTC) to settle such cases speedily.

"Priyanka Preeti (2022)", in her study, suggested the weight-age of ensuring fair trial in cheque-

bounce cases, if case demands directing a disputed cheque to be sent to a handwriting expert. Such evidence have special weitage during the procedure.

"Andrew Hudson (2022)", in his study in the context of the UK, focused on how the non-payment of a cheque due to insufficiency of fund is generally a matter for the civil courts, unless there is evidence of dishonest intent, which could lead to fraud charges.

"Renu Chaudhary (2022)" explains that the legal treatment of bounced cheque varies across different states, with both civil and criminal liabilities are imposed. There must be increased penalties for repeated offenders. This comparative analysis reveals that India's approach to treating cheque dishonor due to insufficiency of fund as a criminal offense is on the stricter end of the side. The rising volume of litigation it generates underscores the increasing amendments in the provisions of Act.

"**Hassan Arab (2022)"** stated that there had been strict laws that criminalized bounced cheque due to insufficiency of fund, often leading to imprisonment. Recently, there have been new reforms to decriminalize the issuance of cheque without sufficient funds in certain instances, it is shifting the focus towards civil remedies.

"Shashank Agarwal (2022)", in his study, explained that legal defence for accused in 138 NI Act cases helps them find loopholes in cheque bounce cases to get judgments in their favour. This study critically examines the growing reliance on electronic evidence (emails, Whats-app communications, digital invoices) to prove the existence of a debt which can be enforceable in NI Act cases.

"**D. Damle at. el.. (2022)"** explained that cheque bounce cases due to insufficiency of fund are the major contributors to overall pendency in courts. His study suggested many recommendations for summary trials, clarify jurisdictions, ensure the presence of the drawer, to reduce various types of case proceedings, and to increase the courts, which reduce the delays in cases. However, it is found that these suggestions were given to encourage more mediation but is likely to have no effect to exceed the disposal of cases.

"Akash Kumar Baglekar(2022)", in his study, mentioned the persistent issue of territorial jurisdiction in NI Act cases. Despite the landmark judgment in "Dashrath RupSingh Rathod v. State of Maharashtra" and subsequent legislative amendments, he argued that ambiguities remain, leading to prolonged preliminary litigation. The paper analyzed conflicting High Court judgments to explained the need for a more specific legislative interventions to settle the jurisdictional question in general.

"Suman Lata Chaudhary (2021)", according to her research paper, the purpose of the article is to make provisions for compensatory justice to the payee of the cheque, which is in furtherance of the object of this legislation.

"Miskeen M Mohamed (2020)", wrote in his study on judicial verdicts of delay in cheque

Dishonour cases and their impact on the offenders "under section 138 of negotiable instruments act 1881", that The court has held that no new notice was required so long as the cause of action arises within a month complaint has been filed.

"**R. Nagar, Sheth at. el. (2020)",** analyzed the backlog in cheque bounce cases "under the Negotiable Instruments Act, 1881. Section 143(3)". The cases has to be tried within a time-frame of 6 months under Section 138 from the date of filing the complaint. The frivolous cases having some procedural issues should be adjudicated timely.

"Deepti Gupta(2018)",in her PhD research paper Law relating to dishonour of cheque in India a study reveals that in our Fast Track Courts in-service Judicial Officers should be appointed in these courts, they may be given promotions on purely temporary basis initially for two years extendable by another two years or till they are promoted on regular basis and regular promotions shall depend on their performance in these Courts.

"S. **Goel, (2016)"** in his study, he discussed the "negotiable instrument" is not defined in the "Negotiable Instruments Act, 1881", but Section 13 of this Act provides a view who are included within this, they are promissory note, bill of exchange or cheque payable either to order or to bearer on demand.

3. Research Gaps:

After reviewing the national and international studies on the topic at hand, the following research gaps in the literature have been found.

- There is absence of comprehensive state-level empirical analysis about effectiveness and efficiency of Special NI courts in Rajasthan.
- The amendments in the NI Act made in 2018 and their impacts on cheque bounce are also not fully explored in previous studies.
- Limited insights about the stakeholders' experience (judges, advocates, litigants) in cheque bounce cases have been undertaken in previous studies in Rajasthan.

To fill the above gaps, the researcher planned to conduct an analytical, comparative, and empirical study on the efficiency and effectiveness of Special NI courts in Rajasthan.

4. Statement of the Research Problem

Delay in disposal of cheque bounce cases hinders the transaction process in the banking and payment system, ultimately results in less use of negotiable instruments.As the "delayed justice in cheque dishonour cases defeats the object of the legislation itself," inspite of Section 138 deals with the cheque bounce cases, the delay in adjudication rendered the provision ineffective. In

"Re: Expeditious Trial of Case under Section 138 of the Negotiable Instruments Act, 1881", "The Supreme Court of India, (Suo Motu Writ Petition (Crl.) No. 2 of 2020)", identified the pressing need to establish Special Courts only for cheque dishonour cases. This urgency was noticed due to massive "Pendency of Cheque Dishonour Cases, viz as December 2019, over 35.16 lakh cases of cheque bounce were pending in courts across the country", which constitute nearly 20% of all criminal cases reported. Various amendments in NI Act was done to expedite trials, but pendency continued to rise and the cases increased from 33 lakh by April 2022 to 43 lakh by December 2024. Rajasthan contributed with highest pendency with more than 6.4 lakh cases, among various States.This backlog created a urgency to combat and deal with high volume of specific pendency, the Supreme Court directed High Courts of 5 States (including Rajasthan) to constitute Special NI courts.

Special NI courts have been established at "Jaipur Metro-I, Jaipur Metro-II, Jodhpur Metro, Udaipur, and Ajmer". This analytical research will analyze these NI courts' functioning, judgments of the higher judiciary, and legal framework governing and regulating the NI courts in India with special reference to Rajasthan's above-mentioned five districts. In Jaipur, in the month of July, total cheque bounce cases pending were 2, 50,000, which reached 4, 49,394 in June 2025. The NJDG shows a significant backlog of cheque bounce cases in the specially constituted NI courts. The substantial increase in cheque bounce cases in Rajasthan raised a question mark on the efficiency and effectiveness of the creation of special NI courts in five districts of Rajasthan, including in the study areas. There is a critical need to investigate why these courts remain ineffective, evaluate implementation gaps, and propose evidence-based reforms.

5. Significance of the study

I. The study will be useful for lawmakers to bring policy and law reforms

II. The evidence-based reforms will be useful for courts to know how effectively they can manage NI litigation.

III. The study will help legislators to reconsider fast-track clauses, special courts, and procedural simplicity.

IV. The study will be useful to enhance knowledge and significant academic contribution.

6. Research Objectives

I. To identify and analyze pendency and disposal trends of cheque bounce cases in Special NI courts by using judicial data.

II. To identify and analyse inefficiencies causing delay in disposing cheque bounce cases by examining pendency.

III. To analyze legislative response relating to the chequ bounce cases & efficiency and effectiveness of Special NI courts.

IV. To analyze decisions of regular court and special courts in cheque bounce cases to ascertain the relief granted, directions given and law interpreted and to know differences in approach.

V. To compare the efficiency and effectiveness of Rajasthan's Special NI courts with other States to see what drives efficiency there.

VI. To empirically investigates about stakeholders' experiences and perceptions relating to Special NI Courts and their performance in cheque bounce cases.

VII. To suggest practical reforms on how to increase the efficiency and effectiveness of Special NI courts.

7. Research Questions

I. What factors cause pendency of cheque bounce cases in Special NI courts?

II. Do legal, procedural, and infrastructural inefficiencies affect the effectiveness of Special NI courts in Rajasthan?

III. Whether existing laws are adequate to ensure effective and efficient working of special NI courts?

IV. How cheque bounce cases are disposed of in regular courts and special courts and how both differs in their functioning.

V. How do litigants, judges, and advocates perceive and experience the main reasons for delays in these courts?

VI. What legal, procedural, administrative, and infrastructural changes could be made to enhance the operation of Rajasthan's NI Courts?

8. Hypotheses

I. Special NI Courts in Rajasthan are ineffective in disposing cheque bounce case in time bound manner.

II. There is Legal, Procedural, Administrative, and Infrastructural inefficiencies that hamper effective adjudication of cheque bounce cases in Special NI courts.

9. Research Methodology:

- **Research design**

In the present study, the researcher will adopt a mixed-methods research design integrating doctrinal and non-doctrinal. The quantitative, qualitative, comparative, and analytical insights will be used for doctrinal and non-doctrinal study. The doctrinal

research will focus on an analytical study of the legal framework, decisions of judicial bodies, and SC mandates on special NI courts, while the empirical and comparative research will collect primary data through questionnaires, interviews and focused group discussions. These designs allow a comprehensive understanding of both the theoretical framework and its practical implications.

- **Sample of the Study:**

The universe of the study comprises Special NI courts established in four districts/places of the State of Rajasthan, viz. Jaipur Metro-1, Jaipur Metro-11, Jodhpur, Ajmer, and Udaipur. The judges, litigants, and advocates dealing cheque bounce cases will be interviewed to gain their experiences about the performance and efficiency of Special NI courts.

- **Sampling Technique:**

A purposive sampling method will be applied in the present study to ensure that respondents are directly relevant to the study**.** The judges, litigants, and advocates contesting cheque bounce cases in Special NI Courts will be included in the study to record their perceptions and experiences about the performance, effectiveness, and efficiency of Special NI courts.

- **Sample Size:**

There will be two categories of respondents chosen as the sample, viz., litigants (parties in cheque bounce cases), and the second category includes judges and advocates for the present study. Approximately 400 respondents (from four districts) and 175 advocates contesting cheque bounce cases, and 25 judges from Special NI courts will be drawn as a sample. Thus, a total of 600 individual NI litigants, judges, and advocates will be included in the sample.

- **Data Analysis:**

The collected data will be analyzed with the help of MS-Excel. The descriptive statistics (frequency mean,& median) will be drawn to interpret the data. In addition, thematic & content analysis will be used.

- **Sources of Data**

I. Primary Data:

The primary data for the present study will be collected through structured

questionnaires, interviews, and focus group discussions with key stakeholders such as judges, litigants, and advocates.

II. Secondary Data:

The secondary sources of data will include statutes, policies, and codes, SC mandates on special NI courts, court decisions, and government reports. In addition, law books, scholarly articles, law journals, periodicals, and online databases (SCC Online, Manupatra, Heine Online, J-store) , NJDG will be relied upon to complete this study.

10. Scope and Limitations -

- **Scope:**

I. The present study will be conducted in the State of Rajasthan .

II. The study will focus on the cheque bounce case in Special NI courts in Rajasthan and comparative insights from other states.

III. The Special NI courts set up in four districts, viz. "Jaipur, Jodhpur, Ajmer, and Udaipur of Rajasthan" to dispose of cheque bounce cases, will be included in this study.

IV. The existing laws and judicial approach addressing cases of cheque bounce will be evaluated analytically and critically in the present study.

V. The perceptions of the stakeholders, such as judges, advocates, and litigants, will also be taken from four districts to gauge how effectively and efficiently NI courts are working in above mentioned districts to dispose of cases.

- **Limitations:**

The present study will empirically investigate the insights of judges, advocates, and litigants concerning the efficiency and effectiveness of special NI courts; hence, the study is time-bound in nature, based on field surveys.

I. The data to identify the pendency of cheque bounce cases in Special NI courts will be obtained from NJDG. The NJDG data gaps and inconsistencies will pose challenges to the present study.

II. The Legislative changes during research may shift trends of the study.

III. The present study is limited to special NI courts cases in four districts only.

11. Expected Outcomes:

I. A thorough, evidence-based, and analytical report on the effectiveness and operation of

Special NI Courts in all Indian states, with a focus on Rajasthan

II. A concise, fact-based list of the main obstacles in the NI Act lawsuit procedure.

III. A list of specific, useful, and focused suggestions for judicial administrators, the Rajasthan High Court, and legislators.

IV. A solid research framework that may be used to examine specialized courts in different jurisdictions.

12. Research Timeline

Phases	**Months**	**Targets**
1	1-6 months (Year 1)	Review of literature will be completed with the preparation of Proposal outlines (the road-map for research to be conducted). Preparation of data collection tools and their testing/ identification of legal issues.Collect administrative and judicial data also. File RTI to get data regarding functioning of Special NI Courts concerned to my work. Fully focused on data collection & legal analysis.
2	7-12 months (Year 1)	Complete Data collection of the issues to arranging the data collected. Feeding, decoding of data, and Tabulation of data. Writing of chapters and review by the guide.
3	13-18 months (Year 2)	Interpretation and Analysis of data collected, Compilation of material, and report writing
4	19-24 months (Year 2)	Complete the Conclusion & Suggestions with the Recommendations. Final editing and proofing of thesis with Plagiarism checked certificate. Submission of Research Thesis and prepare for viva voce.

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